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Terrorism: The United States Is Not Ready to Respond to the Threat Against the Homeland

by

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A paper submitted to the faculty of the Naval War College in partial satisfaction of the requirements of the Department of Joint Military Operations.

The contents of this paper reflect my own personal views and are not necessarily endorsed by the Naval War College or the Department of the Navy.

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<b>17. Abstract Security Classification:</b> UNCLASSIFIED <p>The principle threat to the United States' national security has undergone a significant change. The dissolution of the Soviet Union has shattered the global balance of power and left the United States as the world's lone superpower. The threat facing our nation has shifted from a single, definable foe to one that is much less clear. The threat facing our nation today is characterized by terms such as homeland defense, rogue state, non-state actor, and Weapons of Mass Destruction (WMD). This modern threat is terrorism within our nation's borders.</p> <p>Currently, the United States is not prepared to counteract this threat. While significant attention has been paid to the terrorist threat over the past five years, our nation's strategy for dealing with this danger is still unfocused and inefficient. Today, America's strategy to defeat terrorism is contingent on the participation of several different state, local and federal agencies. Due to civil liberty concerns, the nation's most qualified agency, the Department of Defense (DoD), plays only a minor role. More importantly, the U.S. Joint Forces Command (USJFCOM), which is assigned the responsibility of providing military assistance during homeland terrorist attacks, has an equally limited role in countering the terrorist threat.</p> <p>To improve our ability to counter this emerging threat, the United States must re-evaluate the way in which we deal with this threat and assign assets based on capability. In particular, our nation must amend the laws, which restrict Department of Defense's participation in homeland defense so that the U.S. Joint Forces Command is allowed to play a larger role in the Crisis and Consequence Management missions.</p>			
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## INTRODUCTION

During the past decade the principle threat to the United States' national security has undergone a significant change. The dissolution of the Soviet Union has shattered the global balance of power and left the United States without a comparable adversary. As the world's lone superpower, the threat facing our nation has shifted from a single, definable foe to one that is much less clear. The threat facing our nation today is characterized by terms such as homeland defense, rogue state, non-state actor, and Weapons of Mass Destruction (WMD). This modern threat is terrorism within our nation's borders.

Currently, the United States is not prepared to counteract this threat. While significant attention has been paid to the terrorist threat over the past five years, our nation's strategy for dealing with this danger is still unfocused and inefficient. Today, America's strategy to defeat terrorism is contingent on the participation of state, local and more than "45 departments and agencies of the Federal Government."<sup>1</sup> Due to civil liberty concerns, the nation's most qualified agency, the Department of Defense (DoD), plays only a minor role. More importantly, the U.S. Joint Forces Command (USJFCOM), which is assigned the responsibility of providing military assistance during homeland terrorist attacks, has an equally limited role in countering the terrorist threat.

To improve our ability to counter this emerging threat, the United States must re-evaluate the way in which we deal with this threat and assign assets based on capability. In particular, our nation must amend the laws, which restrict Department of Defense's participation in homeland defense so that the U.S. Joint Forces Command is allowed to play a larger role in the Crisis and Consequence Management missions. In turn, U.S. Joint Forces Command must assign response assets that are capable of meeting this emerging threat.

## SUPER POWER OR TARGET

Over the past 10 years, the United States has clearly surfaced as the most powerful nation in the world. Without a comparable adversary, America has often found itself filling the role of world policeman and trying to provide stability to an unpredictable world. In this capacity, our nation's armed forces have intervened in several conflicts within the last decade. The superior performance of our military in the majority of these interventions has clearly demonstrated the dominance of our forces over other countries militaries.

While our nation's position as the world's pre-eminent military power has proven to be a significant benefit, it has not come without a price. Success often breeds animosity, and the United States willingness to play a leading role in shaping the global environment has had the negative effect of disenfranchising many states and organizations. Because many of these entities do not have the ability to confront the United States via conventional means they have started to use terrorism as a means of influencing our national policy. As a weapon which has historically been used by the weak against the strong, terrorism offers these unfriendly states and non-state actors the best means of influencing United States policy.<sup>2</sup>

Data collected since the end of the 'Cold War' seems to confirm that there is a measurable link between our nations increased global intervention and terrorism. In a 1997 report on Department of Defense Transnational Threats, the Defense Science Board stated that:

"America's position in the world invites attacks simply because of its presence. Historical data show[s] a strong correlation between U.S. involvement in international situations and an increase in terrorist attacks against the United States."<sup>3</sup>

Following the terrorist attacks on the United States Embassies in Tanzania and Kenya, Osama bin Laden added weight to this argument by stating that his group carried out the attacks to

“defend the Muslim holy places in Mecca and Medina.”<sup>4</sup> Finally, a 1998 study, conducted by the CATO Institute, identified more than 150 terrorist incidents that occurred from 1990 - 1998, which can be directly related to United States intervention somewhere in the world.<sup>5</sup> While the correlation between the United States’ global intervention and terrorism is alarming, it is not the only factor that points to terrorism as the nation’s pre-eminent emerging threat.

### **THE CHANGING FACE OF TERRORISM**

For our nation, the focus and lethality of the terrorist threat has changed substantially over the past decade. In particular, three disturbing trends have developed. First, terrorist organizations have increasingly targeted United States’ interests. Secondly, terrorists have demonstrated the ability to attack locations within our nation’s borders. Finally, terrorist attacks have begun to employ much more lethal weaponry.

Since the early 1990’s, terrorists have increasingly focused attacks on United States interests. In fact, over the past decade “terrorists have targeted the United States more often than any other country.”<sup>6</sup> In 1999, the U.S. State Department reported that of 392 international terrorist attacks, 169 were perpetrated against United States targets.<sup>7</sup> There are several reasons for this trend. These include the geographical scope and diversity of the United States’ overseas interests, our nation’s willingness to intervene in global disputes, and our current position as the world’s only superpower.

Another developing trend has been terrorist groups willingness to attack targets within the United States’ homeland. In the past, the terrorist threat to United State’s citizens was confined to American’s traveling or living abroad.<sup>8</sup> Events of the last decade have shown that our nation’s borders no longer deter modern international terrorists. While the bombing of the World Trade Center, in 1993, is the most infamous attack conducted within our nation’s borders, it is just one

of many attempts by terrorists to influence United States policy by attacking our homeland.

Table 1, details the terrorist attacks and plots which have occurred since 1993.

**Table 1<sup>9</sup>**

**Terrorist Plots/Attacks Against the U.S. Homeland Since 1993**

<b>Date of Event</b>	<b>Event</b>
23 January 1993	Mir Aimal Kansi, a Pakistani, fires on CIA employees outside the agency's headquarters in Virginia.
26 February 1993	A group of Islamic extremists detonate a massive van bomb in the parking garage of the World Trade Center in New York City.
03 July 1993	An Islamic extremist group is foiled in its plot to blow up New York City landmarks including the U.N Building, Lincoln Tunnel, and George Washington Bridge.
21 October 1994	Members of the Abu Nidal organization are convicted of plotting to blow up the Israeli embassy in Washington.
07 February 1995	Ramzi Yousef, the mastermind of the World Trade Center bombing is arrested. The arrest foils a plot that had already been set in motion to bomb 12 U.S. airline jets in flight.
Easter 1995	U.S. authorities are told by Japanese police that members of the Aum Shinrikyo religious cult had planned to conduct a nerve gas attack at Disneyland in Anaheim, California.
23 February 1997	Ali Hassan Abu Kamal, acting in revenge for the treatment of Palestinians by the United States and Israel, opens fire on several tourists at the Empire State Building observation deck.
31 July 1997	Police in Brooklyn arrest two Palestinian men who allegedly planned to carry out suicide bombing attacks in the New York City subway.
December 1999	Jordanian police arrest several extremists who are planning to carry out terrorist attacks during U.S. millennium celebrations.
December 1999	Border inspectors in Washington arrest an Islamic extremist trying to smuggle explosives and bomb making material across the U.S. - Canadian border.

A final trend that has emerged is that terrorist attacks have shown a strong trend towards greater lethality. Today, more than ever, terrorist attacks are designed to kill as many people as possible. In a recently published report, the National Commission on Terrorism stated that the reason for this change is:

"...in the 1970's and 1980's, most terrorist organizations had clear

political objectives. They tried to calibrate their attacks to produce just enough bloodshed to get attention for their cause, but not so much as to alienate public support.... Today, more often, terrorist groups are motivated by hatred of a country or ethnic group. Such groups may lack a concrete political goal other than to punish their enemies by killing as many of them as possible, seemingly without concern about alienating sympathizers." <sup>10</sup>

The United States has experienced this trend first-hand. The terrorist attack on the World Trade Center resulted in six deaths and more than 1000 casualties, while the bombings of the U.S. Embassies in Africa, in 1998, inflicted more than 5,000 casualties.<sup>11</sup> The goal of the terrorist is no longer to garner attention, but to kill indiscriminately.

These current trends highlight the magnitude of the threat of modern terrorism. More importantly, they clearly illustrate that the United States, more than any other country, must confront this problem. Unfortunately, it is doubtful that these trends will remain static over the next decade.

### **THE EMERGING HOMELAND THREAT**

Today there are several states and terrorist organizations that harbor a strong distaste for the United States. In its 1999 'Patterns of Global Terrorism Report', the U.S. Department of State identified 7 states and 28 Foreign Terrorist Organizations that currently advocate the use of terrorism against our nation.<sup>12</sup> Their philosophy can be attributed to our nation's current position as the world's only superpower and our readiness to intervene in conflicts around the world.<sup>13</sup>

These two factors should not change in the near future. In fact, a 50 percent real reduction in global defense spending, [which has resulted in both adversaries and allies not keeping pace with U.S. military modernization despite our nation's own spending reductions], will more than likely have the effect of furthering our nation's military dominance.<sup>14</sup> With these factors still in place, the terrorist threat against our nation will not likely diminish in the foreseeable future.

On the contrary, terrorist attacks against our nation's homeland will more than likely become the method of choice for rouge states and terrorist organizations to influence U. S. foreign policy. Terrorism is attractive to these entities for three reasons. First, it enables them to attack the United States without having to engage our superior armed forces. Secondly, the availability of Weapons of Mass Destruction (WMD) allows single terrorist acts to be more lethal. Finally, the United States homeland is easily accessible.

Recent military engagements, including Operations DESERT STORM and ALLIED FORCE have demonstrated the superiority of the United States' military. These operations have also shown the futility of using a conventional approach when engaging the United States in a military conflict. Armed with this knowledge adversaries, will continue to turn to other means to threaten the United States. According to the Director of Central Intelligence, George Tenet,

“many adversaries believe the best way to avoid, deter, or offset military superiority is to develop a capability to threaten the U.S. homeland. The most serious threat will be from insiders, terrorists, and other small groups or individuals carrying out well coordinated strikes against selected critical nodes.”<sup>15</sup>

The escalating gulf between the United States military and other nations' forces will have the indirect consequence of accelerating the trend detailed in Table 1.

Another factor, which will influence terrorists to conduct attacks within our nation's borders, is the availability of lethal weapons. In a 1999 report on terrorism, the RAND Corporation noted:

“the increasing availability of high-tech weapons from former Warsaw Pact arsenals and the proliferation of fissile materials from the former Soviet Union and other Eastern Bloc countries, coupled with the relative ease with which some chemical and biological warfare agents can be manufactured suggests that terrorists [will] likely to cross into the WMD domain.”<sup>16</sup>



The availability of these types of weapons gives unfriendly states and terrorist organization the ability to impart catastrophic damage on the United States through a single act. In essence, these new weapons dramatically increase the impact of a terrorist attack without increasing the risk to the terrorist, sponsoring state or organization.

A final reason that unfriendly states and organizations will use terrorism against the United States homeland as a means of influencing or intimidating U.S. policy is the ease of which targets can be accessed. The attacks on the Alfred P. Murrah Federal Building in Oklahoma City and the World Trade Center, underscore the ease at which American facilities can be targeted. The fact that many terrorist groups that threaten the United States have cells operating within our borders also increases the probability that homeland targets will be targeted.<sup>17</sup>

Unfortunately, as shown in Table 1, the threat of terrorist attacks within our nation's borders has already become a reality. Recent trends in international terrorism clearly suggest that the threat against our homeland will continue to increase over the next decade. Based on this information, it would be logical that our nation would use every tool in its arsenal to deter or respond to a terrorist attack. Unfortunately, this approach has not been taken. Currently, the nation's policy for defending the homeland against terrorism is unfocused and fails to correctly assign responsibilities to the most capable federal agencies.

### **CURRENT POLICY**

The United States policy for combating terrorism against the homeland is derived from a variety of different directives. Most important among these are: Presidential Decision Directives 39 and 62, the Defense Against Weapons of Mass Destruction Act of 1996, and the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1984 (as amended in 1995). The absence of Department of Defense participation is specifically noteworthy in all these directives

### **Presidential Decision Directive 39 (PDD - 39)**

Perhaps the most significant directive that deals with countering the homeland terrorist threat is Presidential Decision Directive 39 (PDD - 39). Drafted in 1995, PDD - 39 formally recognizes terrorism as a serious threat to our national security and states that the policy of the United States is "to deter, defeat and respond vigorously to all terrorist attacks on our territory and against our citizens, or facilities, whether they occur domestically, in international waters or airspace or on foreign territory."<sup>18</sup> The most important part of PDD -39 deals with assigning responsibilities to federal agencies for countering the terrorist threat.

Most significant among these assignments are the choices for Lead Federal Agencies (LFA) to oversee the Crisis Management and Consequence Management missions. PDD - 39 directs that the Department of Justice, acting through the Federal Bureau of Investigation, act as the LFA for Crisis Management. The Federal Emergency Management Agency is assigned as the LFA for Consequence Management. With regard to the Department of Defense, PDD - 39 limits their participation to that of a supporting agency for both management missions.

### **Presidential Decision Directive 62 (PDD - 62)**

Presidential Decision Directive 62 (PDD-62) builds upon the components of PDD-39. It reinforces the missions of the agencies charged with countering the terrorist threat and, at the same time, attempts to create a more integrated approach to defending the homeland.<sup>19</sup> To do this, PDD-62 establishes an Office of the National Coordinator for Security, Infrastructure Protection and Counter-Terrorism.<sup>20</sup> PDD - 62 assigns this office the responsibility of overseeing the relevant policies and programs associated with both the Crisis and Consequence Management aspect of the homeland terrorist threat. However, it does not give this office any oversight with

respect to Crisis and Consequence Management Response. With respect to the Department of Defense, this directive does not broaden the military's scope of responsibility.

### **Defense Against Weapons of Mass Destruction Act**

The Defense Against Weapons of Mass Destruction Act, also known as the Nunn-Lugar-Domenici Act, principally focuses on domestic preparedness with respect to a terrorist attack on the United States' homeland involving Weapons of Mass Destruction.<sup>21</sup> Passed in 1996, the Act questions our nation's ability to respond to a terrorist incident within U.S. borders. With respect to the military, the Act cites that the Department of Defense is the agency most capable of responding to the WMD threat, however, it only assigns DOD the mission of "enhancing the capability of federal, state, and local emergency responders" under a program that is now referred to as the Domestic Preparedness Program.<sup>22</sup> The purpose of this program was to utilize Department of Defense assets to train state and local responders to manage the consequences of a catastrophic terrorist act.

### **Robert T. Stafford Disaster Relief and Emergency Assistance Act**

The amended Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1995 also addressed the nation's ability to respond to terrorism. The most significant aspect of this Act was to require that the Federal Response Plan (FRP) be updated to address government response during a domestic terrorist incident. The purpose of the FRP is to designate Emergency Support Functions during federal response to major domestic emergencies.<sup>23</sup> With respect to military involvement, this Act put in motion the legislation that led to the creation of the Department of Defense's Weapons of Mass Destruction - Civil Support Teams. These teams, originally called Rapid Assessment and Initial Detection (RAID) Teams, are composed of Army National Guard personnel and serve as a ready response force. They can "deploy rapidly and assist local first

responders in determining the precise nature of an attack, provide expert medical and technical advice, and help pave the way for identification and arrival of follow-on military assets.”<sup>24</sup> These teams can be used as state or federal assets.

### **CURRENT DOD AND USJFCOM ROLE**

A common theme in the four previous directives is that they limit DoD’s role in defending the nation against the terrorist threat. The primary reason for this is a law called the Posse Comitatus Act.

#### **Posse Comitatus Act**

Passed in 1878, this act prohibits the Army and Air Force from enforcing civil or criminal laws with the United States.<sup>1</sup> While the law grants the President the authority to use federal troops in extraordinary instances to restore order, instances of such use have been unplanned and rare.<sup>25</sup> Thus, even though the military may be the most capable agency to deal with the terrorist threat, this act has precluded the military from being used against the homeland threat.

#### **CURRENT ROLE**

The constraints imposed by the Posse Comitatus Act, have been the key factor limiting the Department of Defense’s role in Crisis and Consequence Management Missions. As a result of this, DOD’s Unified Commander for supporting contingencies within the continental United States, the United States Joint Forces Command, is not currently assigned a mission that is proportional to the wealth of capabilities that they possess for dealing with this type of threat.

With regard to Crisis Management, the United States Joint Forces Command’s responsibility is negligible. Currently, the only entity of the Department of Defense, which supports this

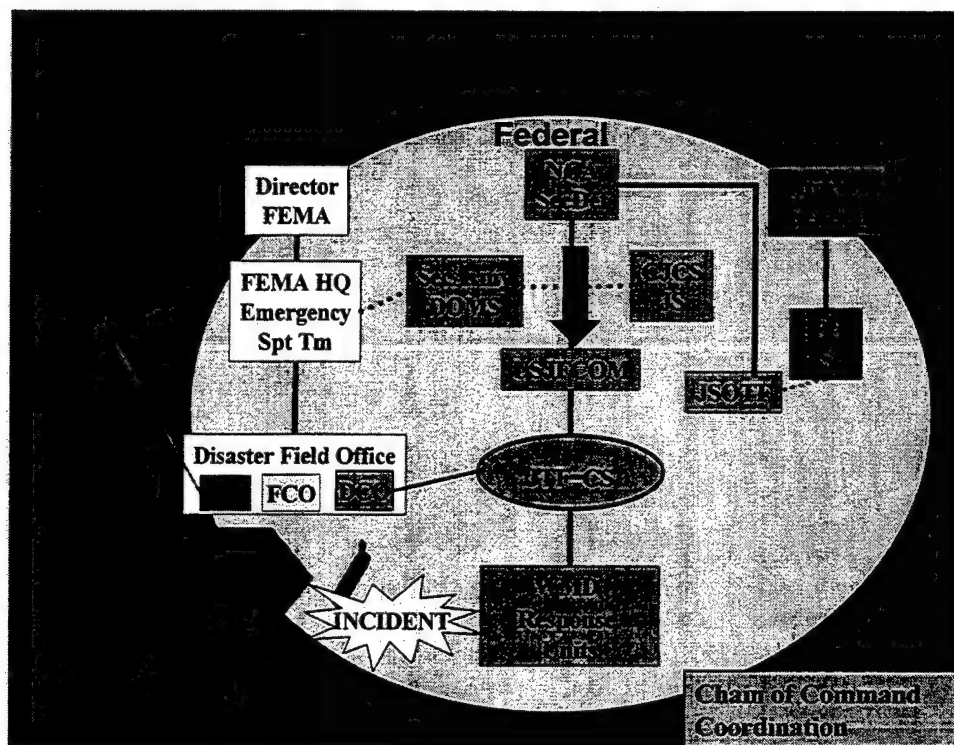
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<sup>1</sup> Subsequent DoD Directives prohibit the Navy and Marine Corps from enforcing laws within the United States.

mission, is a Joint Special Operations Task Force, which works directly for the Joint Chiefs of Staff.<sup>26</sup> Their mission is highly classified and carried out “only in an adhoc manner between the CIA and JCS.”<sup>27</sup> Figure 1 details the current Crisis Management Structure.

With respect to Consequence Management, USJFCOM’s role is better defined, but still not proportional to its capabilities. Currently, U.S. Joint Forces Command’s mission is delineated in the Unified Command Plan (UCP). This mission will be expounded upon in a soon to be published Chairman of the Joint Chiefs of Staff (CJCS) Concept Plan 0500 (CONPLAN 0500) Within the Unified Command Plan, U.S. Joint Forces Command is assigned the role of assisting civil authorities in the event of a catastrophic terrorist incident within the continental United

**Figure 1<sup>28</sup>**



Consequence/Crisis Management Structure

States. USJFCOM’s mission is further spelled out in the draft CJCS CONPLAN 0500 as being given the responsibility of deploying:

“military resources and force and conducting military support operations to assist Federal, State, and local authorities in responding to a natural or man-made Chemical, Biological, Radiological, Nuclear, and High-Yield Explosive (CBRNE) incident within the 48 contiguous United States and the District of Columbia.”<sup>29</sup>

While both the UCP and CJCS CONPLAN 0500 articulate the importance of placing a Unified Commander in charge of the military’s Consequence Management mission, they also clearly state that all military assistance will support the civilian controlled Consequence Management structure.

USJFCOM carries out their assigned duties through the recently established Joint Task Force-Civil Support (JTF-CS). JTF-CS is a 38 person Command and Control Team which is headed by an Army National Guard Brigadier General.<sup>30</sup> JTF-CS serves as the military’s On-Scene Coordinator during Consequence Management Missions and is under the operational control of USJFCOM. The stated mission of JTF-CS is to:

“deploy to the vicinity of a WMD incident site in support of the LFA, establish command and control of designated DOD forces, and provide military assistance to civil authorities to save lives, prevent human suffering, and provide temporary critical life support within the United States, its territories, and possessions.”<sup>31</sup>

While the Task Force has no standing response forces assigned to it, their mission would be to coordinate with the civil authorities which federal forces would be needed and take operational control of these forces once they arrived on scene.

In the event that JTF-CS has to respond to a Consequence Management mission, the majority of the forces that would be placed under their operational control would most likely come from Army National Guard (ARNG) and Reserve units. National Guard resources could include the previously mentioned Weapons of Mass Destruction-Civil Support Teams, acting in a federal capacity, or members from local ARNG units. Currently, the ARNG has units positioned in

nearly 3,000 communities across the nation.<sup>32</sup> Reserve units that may respond could include various transportation assets, Combat Support (CS) elements such as Chemical/Biological Decontamination Teams, and medical support units.<sup>33</sup> Finally, active duty assets that may be called upon could include Explosive Ordnance Disposal (EOD) Teams, the Army's Technical Escort Unit (TEU), the Marine Corps Chemical Biological Incident Response Force (CBIRF), and various transportation and medical units. Because there is no TPFDD associated with the JTF-CS mission, the DoD supporting forces would change with each Consequence Management Mission. Figure 1 details the position of USJFCOM and JTF-CS's in the current Consequence Management structure.

While USJFCOM has refined its ability to provide assistance to civilian authorities through the establishment of JTF-CS, their overall plan for responding to a Consequence Management mission is still unfocused. Unfortunately, USJFCOM's approach to the homeland terrorist threat is a microcosm of our national strategy that, like USJFCOM's approach, is flawed.

### **FLAWS IN CURRENT SYSTEM/RECOMMENDATIONS**

Our nation's current system for countering the homeland terrorist threat is not adequate for three reasons. First, the Posse Comitatus Act unduly limits the U.S. Joint Forces Command from supporting a mission that they are uniquely qualified to undertake. Secondly, by splitting up the Crisis and Consequence Management missions, our nation has made it difficult to achieve unity of effort in combating the terrorist threat. Finally, from a USJFCOM perspective, the Unified Commander places too much emphasis on the National Guard and Reserve forces for combating what outgoing Secretary of State Madeline Albright has referred to as "the biggest threat to our country and the world as we enter the 21st century."<sup>34</sup>

While the purpose of the Posse Comitatus Act is steeped in history, the effects of this act on our nation's ability to counter the terrorist threat within the United States are debilitating. In particular, the military is given only a limited supporting role, despite their unparalleled ability to deal with the complex problems that undoubtedly would accompany a terrorist attack against the United States.

It is in the best interest of our country to amend the Posse Comitatus Act to allow USJFCOM to play a greater role in both the Crisis and Consequence Management missions. In a 1998 study on counter-terrorism, former CIA Director John Deutch concluded that the U.S. Joint Forces Command, not the FBI or FEMA, was uniquely qualified to handle the "broad range of activities that affect prevention, containment, and management of the consequences of a catastrophic [terrorist] attack."<sup>35</sup> In 1982 the Act was modified to allow for greater military support in conducting the drug war.<sup>36</sup> Any future changes should be similarly well defined and specific to the task being performed.

With respect to Crisis Management, the following modifications should be made. First, the Act should authorize the military to share intelligence with the Central Intelligence Agency, FBI and other agencies involved with Crisis Management. The military's significant intelligence capability would improve our nation's ability to track terrorist groups within and outside of the United States. Secondly, Special Mission Units consisting of Special Operations Forces should be allowed to openly assist Federal Law Enforcement Agents in locating and apprehending terrorists or terrorist organizations. These units are extremely capable and have successfully been employed to deal with a wide variety of threats including counter-terrorism and counter-proliferation outside the U.S. borders.<sup>37</sup>



To improve the nation's ability to conduct Consequence Management Missions, the Posse Comitatus Act should be amended to allow for greater military participation. In particular, the amendment should make provisions for USJFCOM, through the JTF-CS Commander, to assume the duty of On-Scene Commander during catastrophic terrorist attacks, which overwhelm the civil response structure. In all cases that can be managed by the current Consequence Management structure, the military Task Force Commander should still perform a supporting role. Modifying the Posse Comitatus Act to allow USJFCOM to play a greater role in protecting the United States against terrorism would significantly improve the national strategy for dealing with this threat.

After modifying the Posse Comitatus Act, the current two-tiered system of Consequence and Crisis Management should be re-evaluated. The problem with the current approach is that it has created a bureaucracy, which impedes the nation's ability to achieve a unity of effort in defending the homeland against the threat of terrorism. The latest amendment of the Stafford Act [Renamed the Preparedness Against Terrorism Act 2000] is extremely critical of the nation's current approach to countering the terrorist threat. It points out that "the federal government has created more than 100 federal terrorism response teams and offered close to 100 separate federal terrorism preparedness training courses."<sup>38</sup>

To improve its ability to counter the homeland terrorist threat, the United States should create a Joint Interagency Task Force that would oversee response during all phases of a terrorist incident. Due to the grave nature of the terrorist threat, this Task Force should be headed by the National Command Authority and include representatives from the various federal agencies that are currently involved in the Crisis and Consequence Management missions. In responding to

terrorist incidents, the agency should employ a two-tiered system based on the severity of the terrorist threat or attack.

For non-catastrophic terrorist incidents the response structure should be similar to the current system in place. In essence, FEMA and the FBI would be the lead federal agencies responding to an attack or countering a threat. In this type of scenario, USJFCOM, through JTF-CS would continue to play a supporting role. For catastrophic threats or attacks involving weapons of Mass Destruction, the NCA should direct the effort to counter the threat while JTF-CS should oversee the consequence management aspect. The advantage of this system would be that the NCA could rapidly employ "every bit of power at America's disposal in order to avert or contain an attack."<sup>39</sup> At the same time, the militaries unmatched "ability to command and control vast resources for dangerous, unstructured situations" would enable JTF-CS to rapidly provide stability to a chaotic situations.<sup>40</sup>

A final flaw in the current system is the military's reliance on the Army National Guard and Reserve to bear the brunt of DoD's federally mandated responsibilities. Should the proposed changes above be implemented this problem will become even greater. Even within the confines of the current system, USJFCOM should reassess the way its forces are assigned to respond to the terrorist threat. There are two reasons why USJFCOM should place less emphasis on utilizing ARNG and Reserve forces. First, the most capable ARNG elements will already be employed as state assets. Secondly, the majority of ARNG and Reserve forces are not afforded the training time to adequately prepare for this important mission.

There is no argument that the Army National Guard is an important component in combating terrorism. Because ARNG units are located in many communities throughout the nation, they have the ability to respond quickly to developing situations. This, among other reasons, is why

the WMD-CS Teams have been given such a key role with respect to initial response. However, the ARNG can be best utilized in the capacity of supporting their respective states. In this role, the Guard is governed by Title 32 of the U.S. Code, which allows them to carry out a number of activities including law enforcement.<sup>41</sup> Once federalized, the ARNG is regulated by Title 10 of the U.S. Code, which significantly limits what they can and cannot do in responding to an incident.<sup>42</sup> Another significant problem with relying on the ARNG is that many of these forces will already be employed by the affected state. In essence, many of these forces will not be available to the JTF-CS Commander.

The second reason that ARNG and Reserve forces should not be relied upon to support JTF-CS is training. The missions associated with responding to the consequences of a significant terrorist act will require well trained, disciplined forces. Currently, most Army National Guard units only have 39 training days per year.<sup>43</sup> The Reserve forces, which may be relied upon, are equally limited in training opportunities. In responding to a nationally significant event, it is imperative that our military provide the most qualified assets.

To fix the current situation, USJFCOM should dramatically restructure JTF-CS. In particular, the Task Force should expand to include more active duty forces that, if called upon, could support the Crisis and Consequence Management mission. These forces should be permanently assigned and include both Command and Control (C2) and Ready Response elements. Included in these forces should be elements from U.S. Special Operations Command, Explosive Ordnance Disposal, the Marine Corps Chemical Biological Incident Response Force, the Army's Technical Escort Unit, and the Army's Chemical and Biological Defense Command. Additional medical, intelligence, and transportation elements should be assigned to support operations. The Task Force should still incorporate Reserve elements, such as Civil Support Teams, to fill less time

critical positions. These forces should be commanded by an active duty flag officer and written into an integrated response plan that can be implemented quickly.

By re-structuring JTF-CS to include predominantly active duty forces, USJFCOM will greatly enhance their ability to support this emerging mission. Furthermore, by assigning permanent C2 and Ready Response forces, JTF-CS will develop a better capacity to rapidly respond to both non-catastrophic and catastrophic terrorist attacks. Finally, by decreasing ARNG participation, USJFCOM will enable these units to concentrate solely on the important mission of supporting local and state response.

Various critics will argue that active duty military forces should only be utilized to support overseas operations. These critics fail to understand the changing nature of the threats that our nation faces. Our nation is not prepared to counter the grave threat of terrorism that we are face with today. Because the consequences of a catastrophic terrorist attack would undoubtedly cause damage within our nations borders at a level never experienced before, it is extremely important that the current system be modified. Effective utilization of USJFCOM assets would significantly improve our nations ability to counter this threat.

### CONCLUSIONS

In 1995, former President Clinton articulated the nation's policy on countering the homeland terrorist threat in PDD-39. Specifically, this directive stated that the United States' policy was "to deter, defeat and respond vigorously to all terrorist attacks on our territory and against our citizens, or facilities, whether they occur domestically, in international waters or airspace or on foreign territory."<sup>44</sup> Over the past six years, the United States has invested a significant amount of money and effort in trying to achieve the objectives set forth in the directive. Unfortunately, our nation's efforts have been misguided.

Currently, the United States approach to countering the homeland terrorist threat is unfocused and disorganized. In particular, the two-tiered system of Crisis and Consequence Management has made it difficult to achieve a national unity of effort in combating the threat. Additionally, the Posse Comitatus Act has limited the U.S. Joint Forces Command from supporting a mission that they are uniquely qualified to undertake. To improve its ability to counter this emerging threat, the United States must revise its current system for dealing with terrorist attacks within its borders.

Policy makers must strike a balance between civil liberty concerns and the need to defend the homeland so all of our nation's available resources can be employed against the rising terrorist threat. Specifically, the United States Joint Forces Command must be given a larger role with regard to Consequence and Crisis Management of terrorism so that they can effectively employ active, reserve and National Guard forces in combating this emerging threat.

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<sup>1</sup> National Commission on Terrorism, Countering the Changing Threat of International Terrorism (Washington, DC: GPO, 2000), 34.

<sup>2</sup> John Arquilla and others, Countering the New Terrorism (Santa Monica, CA, RAND Corporation, 1999), 85.

<sup>3</sup> Ivan Eland, "Does U.S. Intervention Overseas Breed Terrorism," CATO Foreign Policy Briefing, 17 December 1998, 2.

<sup>4</sup> John Arquilla and others, Countering the New Terrorism (Santa Monica, CA, RAND Corporation, 1999), 9.

<sup>5</sup> Ivan Eland, "Does U.S. Intervention Overseas Breed Terrorism," CATO Foreign Policy Briefing, 17 December 1998, 14-22.

<sup>6</sup> John Arquilla and others, Countering the New Terrorism (Santa Monica, CA, RAND Corporation, 1999), 35.

<sup>7</sup> Department of State, Patterns of Global Terrorism: 1999 (Washington, DC: April 2000), 1.

<sup>8</sup> National Commission on Terrorism, Countering the Changing Threat of International Terrorism (Washington, DC: GPO, 2000), 6.

<sup>9</sup> Ivan Eland, "Does U.S. Intervention Overseas Breed Terrorism," CATO Foreign Policy Briefing, 17 December 1998, 14-22.

<sup>10</sup> *Ibid.*, 2.

<sup>11</sup> *Ibid.*, 2.

<sup>12</sup> Department of State, Patterns of Global Terrorism: 1999 (Washington, DC: April 2000).

<sup>13</sup> Ivan Eland, "Does U.S. Intervention Overseas Breed Terrorism," CATO Foreign Policy Briefing, 17 December 1998, 1.

<sup>14</sup> Senate Select Committee on Intelligence, Current and Projected National Security Threats to the United States: Hearing Before the Senate Committee on Intelligence, 106th Congress, 2nd session, 2000, 28.

<sup>15</sup> *Ibid.*, 31.

<sup>16</sup> John Arquilla and others, Countering the New Terrorism (Santa Monica, CA, RAND Corporation, 1999), 38.

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- <sup>17</sup> National Commission on Terrorism, Countering the Changing Threat of International Terrorism (Washington, DC: GPO, 2000), 6.
- <sup>18</sup> The White House, Fact Sheet: U.S. Policy on Counterterrorism: Presidential Decision Directive 39, 1995 <<http://www.fas.org.irp/offdocs/pdd-39.htm>> (22 December 2000), 1.
- <sup>19</sup> The White House, Fact Sheet: Combating Terrorism: Presidential Decision Directive 62, 1998 <<http://www.fas.org.irp/offdocs/pdd-62.htm>> (22 December 2000), 1.
- <sup>20</sup> Ibid., 1.
- <sup>21</sup> Defense Against Weapons of Mass Destruction Act in United States Code Congressional and Administrative News (St. Paul: West Publishing Company, 1997), vol. 2, 2716.
- <sup>22</sup> Ibid., 2718.
- <sup>23</sup> Chairman of Joint Chiefs of Staff, Draft CONPLAN 0500 (Washington, DC: 30 September 2000), D-1.
- <sup>24</sup> Department of Defense, Annual Report to the President and Congress (Washington, DC: April 2000), 7-3.
- <sup>25</sup> Russell Howard, "The National Security Act of 1947 and Biological and Chemical Weapons: A Mid-Century Mechanism for End of the Millennium Threats," in Searching for National Security in a NBC World, ed. James Smith (Washington, DC: USAF/INSS Publications, 2000), 166.
- <sup>26</sup> Ashton Carter and others, "Catastrophic Terrorism, Elements of a National Policy," Foreign Affairs, November/December 1998, 16.
- <sup>27</sup> Ibid., 16.
- <sup>28</sup> Randy Culpepper, "WMD Threat Brief," Lecture, U.S. Naval War College, Newport, RI: 17 January 2001.
- <sup>29</sup> Chairman of Joint Chiefs of Staff, Draft CONPLAN 0500 (Washington, DC: 30 September 2000), 5.
- <sup>30</sup> Jim Garamone, "Task Force Counters WMD Threat," American Forces Press Service (January 2000). <<http://www.defenselink.mil/news.html>> (22 December 2000), 1.
- <sup>31</sup> Chairman of Joint Chiefs of Staff, Draft CONPLAN 0500 (Washington, DC: 30 September 2000), A-5.
- <sup>32</sup> Melvin Spice, "The National Guard and Homeland Defense," (U.S. Army Command and General Staff College, Ft. Leavenworth, KS: 1998), 27.
- <sup>33</sup> Department of Defense, Annual Report to the President and Congress (Washington, DC: April 2000), 7-2.
- <sup>34</sup> Ivan Eland, "Does U.S. Intervention Overseas Breed Terrorism," CATO Foreign Policy Briefing, 17 December 1998, 1.
- <sup>35</sup> Ashton Carter and others, "Catastrophic Terrorism, Elements of a National Policy," Foreign Affairs, November/December 1998, 16.
- <sup>36</sup> Nolan Benson, "The Posse Comitatus Act: Is There Need for Change," (U.S. Army War College, Carlisle Barracks, PA: 7 May 1998), 6.
- <sup>37</sup> Russell Howard, "The National Security Act of 1947 and Biological and Chemical Weapons: A Mid-Century Mechanism for End of the Millennium Threats," in Searching for National Security in a NBC World, ed. James Smith (Washington, DC: USAF/INSS Publications, 2000), 163.
- <sup>38</sup> House Committee on Transportation and Infrastructure, Report on Preparedness Against Terrorism Act of 2000, 106th Congress, 2nd session, 2 February 2000, 8.
- <sup>39</sup> Ashton Carter and others, "Catastrophic Terrorism, Elements of a National Policy," Foreign Affairs, November/December 1998, 14.
- <sup>40</sup> National Commission on Terrorism, Countering the Changing Threat of International Terrorism (Washington, DC: GPO, 2000), 39.
- <sup>41</sup> Kevin Stringer, "A Homeland Defense Mission," Military Review, May/June 2000, 98.
- <sup>42</sup> Ibid., 99.
- <sup>43</sup> Ibid., 99.
- <sup>44</sup> The White House, Fact Sheet: U.S. Policy on Counterterrorism: Presidential Decision Directive 39, 1995 <<http://www.fas.org.irp/offdocs/pdd-39.htm>> (22 December 2000), 1.

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